

**Community Preservation Advisory Committee  
November 5, 2003  
9:00 am – 12:00 pm  
State Capitol Room 437  
Meeting Summary**

**Attending:**

Sen. Lynn Bromley (Chair), Cumberland County  
Rep. Ted Koffman (Chair), Bar Harbor,  
Southwest Harbor, Mt. Desert Island  
Rep. Janet McLaughlin, Cape Elizabeth  
Rep. David Tobin, Windham  
David Holt, Town Manager, City of Norway  
Mike Johnson, Maine Historic Preservation  
Commission  
David Keeley, State Planning Office  
Peter Merrill, Maine State Housing Authority  
Ed Suslovic, community development consultant  
and former Realtor

**Absent Committee Members:**

Sen. Tom Sawyer, Penobscot County  
Rep. Peter Mills, Skowhegan, Cornville

**Additional Attendees:**

Liz Rettenmaier, SPO (committee staff)  
Susan Johannesman, Office of Policy and Legal  
Analysis (committee staff)  
John Bastey, Howe Associates  
Scott Brown, Maine Department of Education  
Jennifer Burns, Maine Audubon  
Beth Della Valle, State Planning Office  
Kathy Fuller, Maine Department of  
Transportation  
Mary Ann Gleason, York County Initiative to End  
Homelessness  
Jane LaFleur, Friends of Midcoast Maine  
Rod Melanson, Friends of Midcoast Maine  
Darcy Rollins, Maine Downtown Center

**Introduction and Welcome**

**Presentation / discussion on issues of school siting (Jim Rier and Scott Brown, Maine Department of Education)**

Since the last time Jim appeared before the Committee, he has joined the Department of Education addressing school funding issues. Jim introduced Scott Brown, leader of the construction team of the Department, both renovation and major capital construction, to the Committee.

Since Jim's last presentation to the Committee, there have been several changes:

- The State Board's siting process uses a more comprehensive approach to considering and approving site selection;
- A new annual report is being submitted to the Legislature (Natural Resources and Education Committees) detailing which projects have been approved in the last year. (*handouts*)
  - Since this report was first drafted, the Department has started gathering additional information on transportation, percent of kids that are bussed, etc.
  - The graphic on the 2<sup>nd</sup> page is a quick picture look at the 10 sites approved in FY 2002. Preferred area is where designated growth isn't defined (Chapter 60 adopted 3 years ago). The last column is where you don't particularly want projects to happen – Hebron Elementary was early in the process, and SPO did not get a chance to weigh in on the project.
  - On the front page, part C, local referendum approval rates are a strong indicator of the quality of the process – 70-80% approval would have been unheard of before. That might be an indicator we want to keep an eye on. If that trends downward, we might want to pay attention (and there isn't a real difference between 73 and 84 percent). Before, we were losing about 15% of the projects that had been fully approved by the board. Cleaning up the siting process has been a significant improvement

The challenges continue. The last couple of years, we've been faced with new challenges – declining enrollments, for example. The process requires looking regionally, not just within a town, which is very

difficult to do, as it leads to lots of discussions about consolidation. It's extremely important, though, even though difficult, that we plan these significant capital investments.

The Department has worked to clarify the process (*handout*). Step 5 is the regional study to look at long-term viability. Step 6 is where SPO, BGS, and Education come in re: site selection, downtowns, growth areas, etc.

Questions from the Committee:

- Rep. Suslovic: I still am getting feedback that we are still slanted toward a suburban way of thinking when it comes to building new schools – minimum lot size requirements for schools, parking, fields, the disincentives for growing vertical. Looking ahead, do you see a continuing evolution toward appreciating urban settings for schools, or is that still going against the grain for a small site, without parking, without large play spaces, etc.?
  - That will continue to be challenge. I don't believe that's the rule anymore. This report brings some attention to that. If you look at the number of projects on existing sites or growth area sites, I think the tide has turned – it's happening on a majority of sites, even when they're new construction... The siting process has really improved at this point. Before the State Board approves a site, the SPO looks at it and weighs in on it.
- Rep. McLaughlin: Let's go to Hebron. Would there have been a site in that area that would have met the new criteria?
  - In some areas, it's very hard. Hebron is very rural, so coming up with something that meets our new vision may have been pretty difficult anyway. That was approved roughly 3 years ago, when these new approaches were just evolving. We continue to work with communities that have already purchased or chosen a site before it enters the Department's process. We try to discourage that, but it still happens. The existing school site in Hebron was not a possibility. The existing site had the front door about 30 feet from a major highway.
- Rep. McLaughlin: It would also be good to know if we are expanding an existing site that is not in the best place – some place that isn't downtown or in a growth area.
- Peter Merrill: We know that people, in deciding where to live, look at local taxes and local schools. So, a lot of suburban towns have been attractive to people, maybe moving them in a direction we don't want them to do. Gov. Glendening talked about Maryland, and there they created magnet schools – invested all of their money in in-town schools, using them to attract people into the cities. The related part of that is the money part of it. Jack Elementary. When the state announced how little money was going to be contributed to the reconstruction, it was a huge disincentive for the in-town schools.
  - The situation with the Jack School is very specific to Portland, in that, based on the valuation and the local requirements, most areas meet the local limit with just one project – but Portland doesn't... However, where that school is going to be located is one of the most exciting things happening. It's a great example of a good process.
  - Belfast, Biddeford, Calais are all in-town projects. Lisbon is new construction, but was a great project, blending bike paths. Windham and Cumberland are major projects on existing sites.
- Rep. Tobin: Even though the area around the new school in Windham is 2-acre lots, we have designated that a growth area, so we can bring denser development there and use it as an incentive for a transfer of development rights program.
- Rep. Suslovic: Looking ahead, do you envision the day when you would be handling an application, renovating an abandoned downtown building?
  - It's possible, but it would have to be a really great site and safe for students, which is the highest priority.
- Rep. Koffman: I would like to invite Scott back to address issues of construction design, efficiency, durability, maintenance, equality – protecting the state and local investment. The other issue I'm interested in is bussing. Prices have been going up, and we're spending \$50 million a year + on bussing. In 10 years, we'll spend a billion dollars on bussing.

Scott Brown continued to answer the Committee's questions. Building a school that meets all the educational requirements, no child left behind, technology, safety and security, etc. has changed school design, and it has only gotten more expensive. Durability, and building better schools is hard and expensive, but it's a commitment that we've made. The Department is trying to get LEED accreditation (Leadership in Energy & Environmental Design), a fairly high standard of construction. There was a bill last session to build our schools 20% above ASHRAE standards (American Society of Heating, Refrigerating and Air-Conditioning Engineers)– we're struggling just to meet them! The building codes are also changing all the time. One of the issues with elementary level kids is around codes – kindergarteners and first graders need to exit at grade, they shouldn't be in stairwells with sixth graders, etc.

Questions from the Committee:

- Sen. Bromley: If the state is going to put money in, the state should have a say in what it looks like and where it goes. Is the list of renovation needs an updated and ongoing list?
  - The Department just had an application process, and only had about 25 applicants in response to the June 2001 \$15m bond. At one time, in '98, there was a study done by building principals and superintendents that was a good benchmark. It was conservative in its needs listing – not including many of the critical elements I listed. We don't have a particularly accurate or more recent study.
- Sen. Bromley: Do we know which towns with schools really need renovation? We aren't always putting the right investments in the right places – a new roof on a building that is going to be closed a year later because all the other systems are failing.
  - We have ongoing lists on who is applying for help – the major capital list is about 100 strong, the renovation list is probably about 100 projects – asbestos, roofs, etc.
- Rep. Suslovic: How do we balance the vision of large campus, fenced, long driveway schools with downtown schools that exist all over the country?
  - In the case of the Jack School, we will be using on street parking and a bus drop to get kids out of traffic. We're doing similar situations in Auburn. I don't know if we've been challenged with building or redeveloping a 5-story building downtown – but all other potentials would need to be examined first. If that were the best alternative, we would consider it.
- Rep. Koffman – please list questions for Scott for future consideration, and we'll invite him back.
  - How does the Department work with communities to assure that the capital improvement plans they have are viable and robust, that they're taking care of the schools they currently have, and are not going to be rewarded for not taking care of their schools?
  - Is there any connection between school impact fees in communities and state aid; is there any state oversight of school impact fees? Is there any connection to the state's school investment decisions?
  - How can we get more strategic about renovation?
  - A lot of new schools were constructed out in the countryside. As they get run down, will we renovate them? Move them more to growth areas?
  - In more rural areas, you're dealing with districts, not a town. What can you tell us about cooperation between towns in siting?
  - I had to go to a daylong training with a 4 inch thick manual to learn how to put a sidewalk in behind the school – how can we have greater cooperation b/w the department and the towns and local officials?
  - I would be curious to know how many communities have schools that are no longer in use, how they are using abandoned schools right now?
  - I'm still interested in exploring ways to use schools to attract people to towns, as opposed to looking to where people are and building schools there.
  - I would like to look at the bussing environment a bit more. The last I read, our bus fleet had a "C" on an A-F rating. What can you tell us about the efficiency of our bus system, our strategies to upgrade? The percentage of our GPA that's spent to transportation over time? How is that comparative to other Northern New England states? Trend information on the amount of time that kids are spending on a bus per day?

- Is there any linkage between your selection of sites and state transportation plans from MDOT for road improvement, and MSHA preferred sites for mixed income housing?

### **Location of State Buildings in Downtowns and Service Centers (Jerry Nault, Bureau of General Services)**

Jerry highlighted a few recent projects:

- In Portland, moving BMV into a renovated historic structure in a downtown area;
- In Augusta, the State has a 15-year lease at the Key Plaza. We're using that as swing space for agencies that are having other spaces renovated/updated/built due to bats, mold, unhealthy buildings (e.g., Conservation);
- After this meeting, I'm going over to the Psychiatric Hospital. In Augusta, they will be freeing up space in the Stone Buildings so they'll be available for potential renovation, demolition, and redevelopment.
- In downtown Bangor, we've extended the lease on Oak Street for the Department of Labor.

In overview, when the division of lease space does work, it works to locate items in downtowns and growth areas. In Dover-Foxcroft, the building is not in the downtown, but it is in the growth area. Since the Department of Labor moved in, a third building has started in that industrial park.

There were requirements for parking that were a challenge; can you update the committee?

- We don't overlook a space because it does not have the necessary parking. It is in law that the parking component has to be compatible with the service. There are provisions for access to parking for those that need it on site, most of the parking is walking distance. I don't think it has ever been a limitation. In Winthrop, DOT created some additional parking to make sure that everyone was accommodated.

Would you lease spaces in a downtown, where folks had to walk two or three blocks to a garage?

- Yes. Some of our locations in Bangor are an example of that

Is this a comprehensive list of the last year's activities?

- John Conrad developed it; it's pretty comprehensive.

Jim Rier had a pretty good report, it would be nice to know if BGS is doing the same things, that there's somebody else looking at it, that we're measuring apples and apples. The good news is appreciated, but it's also good to know when there are outliers.

- These are all the recent leases. From what John tells me, we have not done any outside of downtowns. We haven't gone off into a rural pasture. We try to work with the departments and agencies to steer them downtown. It is typically leased space, so it generally is preexisting building. The DHS building in Augusta and Portland are two examples of new buildings – but they're both in growth areas/downtowns.

Rep. Koffman: As leases begin to lapse, I would hope that our movement is toward consideration of alternative places in designated growth areas, that we're not married to existing leased spaces that aren't in growth areas.

- Springvale, for example, moved into a more concentrated area, from a relatively rural area. Closer to the library, the courthouse.

Jerry was invited to return, and requested to, next time, bring a couple of case studies – some sort of map to talk about where the population is, where the buildings are being sited, etc...

**Preliminary Report From the Barriers to Affordable Housing Subcommittee (Mary Ann Gleason, Subcommittee co-chair)**

The subcommittee has met twice since we were last here, the subcommittee itself and a larger stakeholder group. The first meeting focused on the barriers, what was listed in the committee's charge, and expanding on that to fill in any gaps. (*handout*)

Rep. Suslovic: In light of this Committee's last meeting, I was curious to see where retroactive moratoria come into play. Was it a conscious decision not to specifically label it; it came in obliquely in several areas?

- It's sort of the barrier that happens afterwards, but we are aware of it.

Rep. Tobin: The subcommittee felt that impact fees were not widely used and not a major factor?

- Some members of the committee didn't think that was an issue.
- Rep. Tobin: I think some Southern Maine communities are using that as a disincentive.
- If they're used appropriately under state law, they aren't that big of a barrier, but if they're not...

Rep. Tobin: What was the context of the contract zoning proposal?

- Some people believe that we should be more "planful" than contract zoning allows
- Peter Merrill – I think part of the argument on contract zoning is the conflict between town planners and neighbors (flexibility for development vs. contract zoning is no zoning at all)

Peter Merrill: Some towns have growth caps that exclude federally funded housing – can you send me those examples? Towns like Alfred do that to get around the housing discrimination threat.

The following meeting, the Subcommittee reviewed the barriers, and talked about potential resolutions... (*handout*)

Rep. Tobin: There seems to be a trend in this discussion that we can force folks to do something they don't want to do. People in this state are very upset and we have to be very careful; they will rebel.

Rep. McLaughlin: Please don't have the lawyers do the model zoning ordinances – use the Maine Association of Planners or State Planning Office.

Sanford seems to be ready to be a model for a regional Transfer of Development Rights (TDR) process with Shapleigh. The question is do we really encourage discouraging affordable housing in Shapleigh?

- Rep. Tobin: What's the incentive for towns that gain the density?
- Some towns want growth. They're interested in having younger folks move in. Sanford has a section of town that needs rebuilding/refurbishing, it has a school on the edge that needs the young families, needs some attention. Particularly in York County, 40% growth in the population segment that is 45 years old, or older, has huge implications.

In the interest of time, Committee members were invited to share a brief comment and any additional information they wanted.

- I would encourage you to have a piece in the introduction tying economic development to the availability of affordable housing.
- I would urge you to be bold. Things don't get bolder as they go through the process. We would do a disservice to gloss over the bolder ideas because they are politically unfavorable.
- The answers for some communities in this state are very different than for others. The menu of approaches is a good answer. I'm apprehensive about mandating an answer based on some people's values.
- As to the open space issue, there is an opportunity to make our urban and settled areas more compelling for development and home ownership. I want to suggest that you consult with Jen Burns (Maine Audubon), Tim Glidden (LMF), Ken Elowe (DOC), DECD (MITF) to weave together the open space issue.

- An approach that we tried to weave into some previous legislation is looking at the 35 housing/labor markets in Maine – avoiding the one-size-fits all approach. That starts to build on housing as a regional problem. We shouldn't be pitting town against town, but within a region with a problem, all the communities have a responsibility for fixing it – and towns are rewarded or penalized appropriately.
- Please cluster the recommendations by levels of government, sector, and a sense of leverage / priority – where is the bang for the buck, the cascading dynamics?

### **Update on Access Management (Kathy Fuller, Maine Department of Transportation)**

Kathy provided a handout, the Annual Report of the Access Management Activities, and summarized its highlights for the Committee. (*handout*)

The Committee asked to be kept informed of future rulemaking activities related to Access Management and the major substantive rules this spring on land use and transportation planning.

Kathy noted that the corridor planning process has really taken off across the state. The Department of Transportation and the Regional Transportation Advisory Committees (RTACs) are beginning to talk about what corridor planning means for land use, not just about transportation improvements, but how can the land use side of it help protect the long term life and the carrying capacity of that transportation investment?

The Department is looking at places congested today and looking to 2020 or 2025, looking at the most unsafe locations, and trying to understand where designated growth areas are. We're not talking about all 11,000 miles of the state highway system. This is about 1000 miles of high priority, economic backbone of the state – route 1, 1a, 3, 302, ...

The access development piece outlined in the report (*handout*) is still very much in the conceptual stages, although there are some examples of that happening – e.g., Augusta's new bridge, Standish's paper grid system.

Kathy also provided a draft update of the status of LD 463, An Act to Enhance Integration of Transportation and Land Use Planning.

Questions from the Committee:

- Rep. Tobin: Wouldn't it be wise before MDOT invests a large amount of money to review the abutting towns' ordinances to see if that access would be protected in the long run?
  - Kathy: We're moving toward that.
- Rep. McLaughlin: May we at some point consider having a member of the transportation community sitting on this Committee?
- Rep. Suslovic: Where in the process do we start to look at comprehensive plans, ordinances, etc. in the impacted area – not just the town with the improvements/bypass?
- Peter Merrill: I don't know how you're going to solve the problem of frontage roads, but good luck!
- Rep. Koffman: One size shouldn't fit all. There has to be some kind of cost-benefit about the value of our state highways.
- Rep. Koffman: I see places like Route 9 in New Hampshire that have used frontage roads to great success. For those areas that are most vulnerable to huge costs, would service roads or reducing access save money in the future?

### **Status report on Comprehensive Plan Review study (Beth Della Valle, State Planning Office)**

Beth reported that the subcommittee will be meeting in the near future to synthesize and ready recommendations for CPAC. Beth provided a handout/memo with background information on the topic and some suggestions of what the subcommittee may consider. (*handout*)

Beth provided some highlights from the handout. Part of the reason for the late reviews was the increase in number of reviews due to the increase in number of grants from the smart growth money that we had a few years ago. In addition, the Land Use Team had a 67% turnover in staff between 1997 and 2001; and, during this time our responsibilities have increased.

In the meantime, the team has adopted a series of administrative improvements, with a dramatic improvement, even if we aren't quite there. In general, if reviews are late, they're only a week or two late; and we work in close contact with the town to make sure we aren't inconveniencing them. In 2002, the team completed 17 reviews; in 2003, we have 28 reviews done and another dozen expected by the end of the year. We think this trend will start to turn downward in 2004-2005.

We have also recently increased the amount of funding in comprehensive planning grants, decreasing the number of planning grants awarded, and at the same time, we have started doing more multi-municipal grants – which will all reduce the number of reviews.

We are also retooling the administration of the Act, publishing a comprehensive plan update handbook; revamping data packages; updating and revising review submission and criteria rules; and updating the 1990 comprehensive planning manual.

The next place to look is the statute itself. Some recent revisions have increased administrative responsibilities; some are just confusing.

Rep. Koffman noted that the Legislative Council approved a bill to be considered in the next session, LR 2387, "An act to amend the laws governing growth management". This bill provides that, in granting or loaning state funds to municipalities, preference must be given to municipalities that have certified comprehensive development plans and land use ordinances and capital investment plans consistent with the comprehensive plans as determined by the executive department, State Planning Office.

### **Next Steps**

The Committee discussed the two openings on the Committee, one representing environmental interests and the other representing rural municipal interests.

At the GrowSmart meeting in October, Governor Baldacci announced that he would be working with CPAC to develop his Smart Growth Agenda. The Committee will spend time at a future meeting focusing on this topic.

The annual report to the legislature is due on 12/1/03. Liz will draft a request for the Committee Chairs to push back the reporting date. At the next meeting, the Committee will focus its attention on a limited number (three?) of topics and develop strategies and recommendations for addressing them in the short term (2004). Areas of potential interest mentioned by the Committee include:

- Affordable housing / workforce housing
- Comprehensive planning
- Smart growth agenda
- School interests
- Focus on service centers
- Downtown revitalization
- Building codes/rehab codes
- Primacy of transportation
  - Transit oriented development
  - Highway protection
  - Service roads
- Open space and preservation
- Economic development

- Controlling cost of government
- Inadvertent effect of single-purpose policies, and why we're going in the direction that we are...
- Regionalism

SPO has a small pot of resources if the committee wants to take a 1 day or 2 day working retreat to really sort through these issues.

How can we get there? There's so much information out there; how do we prioritize and get through it?

- Sen. Bromley: We have to articulate what our vision is. I think we've done that in past committees. We might need to revisit it and confirm that it is still true.
- Rep. Suslovic: We're not the only state doing this. It might help to have a quick overview of what the other states are doing. That will help us identify trends, what's working, etc.
- Rep. Koffman: We need to identify the pressure points and analyze what we could do to overcome the political hurdles. Identify immediate and long-term strategies.
- David Keeley: What's our vision for 2020? How do we get beyond the details?
- Beth Della Valle: It would be very helpful if the Committee were to develop a workplan for the next three years.

Next meeting, 12/2/03

- Committee Retreat at Maple Hill Farm, a working session for members

Meeting 12/17/03

- Report back from subcommittees
- Three Year Workplan
- Finalize key strategies / actions for 2004 Legislative Session